

§ 124. Effective date; applicability to lend lease contracts

(a) This chapter shall become effective twenty days after July 1, 1944. With the exception of the provisions of paragraphs (b), (c), (d), and (e) of section 112 of this title, and sections 106 to 110, and 113 of this title, this chapter shall be applicable in the case of any terminated war contract which has been finally settled at or before the effective date of this chapter.

(b) Nothing in this chapter shall limit or affect any authority conferred by sections 411 to 419 of title 22, or Acts supplemental thereto.

(July 1, 1944, ch. 358, § 24, 58 Stat. 670.)

REFERENCES IN TEXT

Sections 411 to 419 of title 22, referred to in subsec. (b), have been omitted from the Code.

§ 125. Exemption of certain contracts outside continental United States or in Alaska

Subject to policies prescribed by the Administrator of General Services, any contracting agency may exempt from some or all of the provisions of this chapter (a) any war contract made or to be performed outside the continental limits of the United States or in Alaska, or (b) any termination inventory situated outside of the continental limits of the United States or in Alaska, or (c) any modification of a war contract pursuant to its terms for the purpose of changing plans or specifications applicable to the work without substantially reducing its extent.

(July 1, 1944, ch. 358, § 25, 58 Stat. 670; Ex. Ord. No. 9809, § 8, eff. Dec. 12, 1946, 11 F.R. 14281; 1947 Reorg. Plan No. 1, § 201, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 951; June 30, 1949, ch. 288, title I, § 102(b), 63 Stat. 380.)

TRANSFER OF FUNCTIONS

Functions of Secretary of the Treasury transferred to Administrator of General Services by section 102(b) of act June 30, 1949, which is classified to section 752(b) of Title 40, Public Buildings, Property, and Works.

"Secretary" substituted for "Director" by section 8 of Ex. Ord. No. 9809 and section 201 of Reorg. Plan No. 1 of 1947, set out in the Appendix to Title 5, Government Organization and Employees.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions by act June 30, 1949, effective July 1, 1949, see section 605 of act June 30, 1949, set out as an Effective Date note under section 471 of Title 40, Public Buildings, Property, and Works.

CHAPTER 3—PROCUREMENT OF SUPPLIES AND SERVICES BY ARMED SERVICES

§§ 151 to 162. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 151, act Feb. 19, 1948, ch. 56, § 2, 62 Stat. 21, related to purchases and contracts for supplies and services for the Armed Services, stated the Congressional declaration of policy, provided for advertising requirements, excepted certain purchases and contracts, authorized reference to Attorney General where there is any evidence of violation of antitrust laws, excluded certain authorizations and contracts. See sections 2303 to 2305 of Title 10, Armed Forces.

Section 152, acts Feb. 19, 1948, ch. 65, § 3, 62 Stat. 22; Aug. 9, 1955, ch. 628, § 15, 69 Stat. 551, related to adver-

tisements for bids, opening of bids and award or rejection of bids. See section 2305 of Title 10. Act Aug. 9, 1955, ch. 628, § 15, 69 Stat. 551, which amended section 152 of this title, was repealed by Pub. L. 85-861, § 36A, Sept. 2, 1958, 72 Stat. 1569.

Section 153, acts Feb. 19, 1948, ch. 65, § 4, 62 Stat. 23; Oct. 31, 1951, ch. 652, 65 Stat. 700, provided for types of contracts and examination of books, records, etc., of contractors. See sections 2306 and 2313 of Title 10.

Section 154, act Feb. 19, 1948, ch. 65, § 5, 62 Stat. 24, authorized advance payments under negotiated contracts. See section 2307 of Title 10.

Section 155, act Feb. 19, 1948, ch. 65, § 6, 62 Stat. 24, provided for remission of liquidated damages. See section 2312 of Title 10.

Section 156, act Feb. 19, 1948, ch. 65, § 7, 62 Stat. 24, provided for determinations and decisions, powers of agency head, finality of decisions, delegations of powers, non-delegable powers, written decisions, preservation of data. See sections 2304, 2310, and 2311 of Title 10.

Section 157, act Feb. 19, 1948, ch. 65, § 8, 62 Stat. 24, related to exemption of purchases or contracts from certain other provisions of law. See section 2304 of Title 10.

Section 158, act Feb. 19, 1948, ch. 65, § 9, 62 Stat. 24, defined "agency head" and "supplies". See sections 2302 and 2303 of Title 10.

Section 159, act Feb. 19, 1948, ch. 65, § 10, 62 Stat. 25, related to assignment and delegation of joint procurement responsibilities by agency head, and allocation of appropriations. See sections 2308 and 2309 of Title 10.

Section 160, act Feb. 19, 1948, ch. 65, § 11(b), 62 Stat. 25, provided that sections 5, 6, 6a, and 13 of this title should be inapplicable to procurement of supplies and services. See section 2314 of Title 10.

Section 161, act Feb. 19, 1948, ch. 65, § 12, 62 Stat. 26, related to concurrent authority of Secretaries of Army, Navy and Air Force. See section 2381 of Title 10.

Section 162, act July 10, 1952, ch. 630, title VI, § 638, 66 Stat. 537, related to obligation of funds by Department of Defense for procurement and distribution of supplies or equipment. See section 2202 of Title 10.

CHAPTER 4—PROCUREMENT PROCEDURES

SUBCHAPTER I—GENERAL PROVISIONS

Sec.

201 to 205. Transferred.

SUBCHAPTER II—GENERAL SERVICES ADMINISTRATION

211 to 219. Transferred.

SUBCHAPTER III—PROPERTY MANAGEMENT

231 to 240. Transferred.

SUBCHAPTER IV—PROCUREMENT PROVISIONS

251. Declaration of purpose of this subchapter.

252. Purchases and contracts for property.

(a) Applicability of subchapter; delegation of authority.

(b) Small business concerns; share of business.

(c) Authorization of erection, repair, or furnishing of public buildings or improvements; contracts for construction or repair of buildings, roads, sidewalks, sewers, mains, etc.; Federal Highway Lands Program.

252a. Simplified acquisition threshold.

(a) Simplified acquisition threshold.

(b) Inapplicable laws.

252b. Implementation of simplified acquisition procedures.

252c. Implementation of FACNET capability.

(a) Implementation of FACNET capability.

(b) Designation of agency official.

253. Competition requirements.

(a) Procurement through full and open competition; competitive procedures.

| Sec. | | Sec. | |
|-------|---|-------|--|
| | (b) Exclusion of particular source; restriction of solicitation to small business concerns. | | (d) Single and multiple contract awards. |
| | (c) Use of noncompetitive procedures. | | (e) Contract modifications. |
| | (d) Property or services deemed available from only one source; nondelegable authority. | | (f) Inapplicability to contracts for advisory and assistance services. |
| | (e) Offer requests to potential sources. | | (g) Relationship to other contracting authority. |
| | (f) Justification for use of noncompetitive procedures. | 253i. | Task order contracts: advisory and assistance services. |
| | (g) Simplified procedures for small purchases. | | (a) Authority to award. |
| | (h) Merit-based award of contracts. | | (b) Limitation on contract period. |
| 253a. | Planning and solicitation requirements. | | (c) Content of notice. |
| | (a) Preparation; planning; specifications in solicitation. | | (d) Required content of solicitation and contract. |
| | (b) Contents of solicitation. | | (e) Multiple awards. |
| | (c) Evaluation factors. | | (f) Contract modifications. |
| | (d) Additional information in solicitation. | | (g) Contract extensions. |
| | (e) Evaluation of purchase options. | | (h) Inapplicability to certain contracts. |
| 253b. | Evaluation and award. | | (i) "Advisory and assistance services" defined. |
| | (a) Basis. | 253j. | Task and delivery order contracts: orders. |
| | (b) Rejection of bids or proposals. | | (a) Issuance of orders. |
| | (c) Opening of bids; promptness of award; written notice. | | (b) Multiple award contracts. |
| | (d) Discussions with offerors; written notification. | | (c) Statement of work. |
| | (e) Post-award debriefings. | | (d) Protests. |
| | (f) Antitrust violations. | | (e) Task and delivery order ombudsman. |
| | (g) Planning for future competition. | | (f) Applicability. |
| | (h) Protest file. | 253k. | Task and delivery order contracts: definitions. |
| | (i) Agency actions on protests. | 253l. | Severable services contracts for periods crossing fiscal years. |
| 253c. | Encouragement of new competition. | | (a) Authority. |
| | (a) "Qualification requirement" defined. | | (b) Obligation of funds. |
| | (b) Agency head; functions; prior to enforcement of qualification requirement. | 254. | Contract requirements. |
| | (c) Applicability; waiver authority; referral of offers. | | (a) Contracts awarded using procedures other than sealed-bid procedures. |
| | (d) Number; qualified sources or products; fewer than two actual manufacturers; functions of agency head. | | (b) Barred contracts; fee limitation; determination of use; advance notification. |
| | (e) Examination; need for qualification requirement. | 254a. | Cost-type research and development contracts with educational institutions. |
| | (f) Enforcement determination by agency head. | 254b. | Cost or pricing data: truth in negotiations. |
| 253d. | Validation of proprietary data restrictions. | | (a) Required cost or pricing data and certification. |
| | (a) Contracts; delivery of technical services; contents. | | (b) Exceptions. |
| | (b) Review; challenge; notice. | | (c) Restrictions on additional authority to require cost or pricing data or other information. |
| | (c) Written request; additional time; schedule of responses. | | (d) Additional exception provisions regarding commercial items. |
| | (d) Decision; validity of asserted restriction; failure to submit response. | | (e) Price reductions for defective cost or pricing data. |
| | (e) Claim; considered claim within Contract Disputes Act of 1978. | | (f) Interest and penalties for certain overpayments. |
| | (f) Challenge; use of technical data; sustained; liability of United States for costs and fees. | | (g) Right of United States to examine contractor records. |
| 253e. | Repealed. | | (h) Required regulations. |
| 253f. | Economic order qualities. | | (i) Definitions. |
| | (a) Procurement of supplies; costs advantageous to United States. | 254c. | Multiyear contracts. |
| | (b) Opinions; economic advantage to United States. | | (a) Authority. |
| 253g. | Prohibition of contractors limiting subcontractor sales directly to United States. | | (b) Termination clause. |
| | (a) Contract restrictions. | | (c) Cancellation ceiling notice. |
| | (b) Rights under law. | | (d) Multiyear contract defined. |
| | (c) Inapplicability to certain contracts. | | (e) Rule of construction. |
| | (d) Inapplicability when Government treated similarly to other purchasers. | 254d. | Examination of records of contractor. |
| 253h. | Task and delivery order contracts: general authority. | | (a) Agency authority. |
| | (a) Authority to award. | | (b) Subpoena power. |
| | (b) Solicitation. | | (c) Comptroller General authority. |
| | (c) Applicability of restriction on use of noncompetitive procedures. | | (d) Limitation on preaward audits relating to indirect costs. |
| | | | (e) Limitation. |
| | | | (f) Inapplicability to certain contracts. |
| | | | (g) Form of original record storage. |
| | | | (h) Use of images of original records. |
| | | | (i) "Records" defined. |
| | | 255. | Contract financing. |
| | | | (a) Payment authority. |
| | | | (b) Performance-based payments. |
| | | | (c) Payment amount. |
| | | | (d) Security for advance payments. |

Sec.

- (e) Conditions for progress payments.
- (f) Conditions for payments for commercial items.
- (g) Action in case of fraud.
- 256. Allowable costs.
 - (a) Indirect cost that violates FAR cost principle.
 - (b) Penalty for violation of cost principle.
 - (c) Waiver of penalty.
 - (d) Applicability of contract disputes procedure to disallowance of cost and assessment of penalty.
 - (e) Specific costs not allowable.
 - (f) Required regulations.
 - (g) Applicability of regulations to subcontractors.
 - (h) Contractor certification required.
 - (i) Penalties for submission of cost known as not allowable.
 - (j) Contractor to have burden of proof.
 - (k) Proceeding costs not allowable.
 - (l) "Covered contract" defined.
- 256a. Waiver of liquidated damages.
- 257. Administrative determinations.
 - (a) Conclusiveness; delegation of powers.
 - (b) Basis of determinations; finding conclusive; preservation of findings; copy.
- 258. Repealed.
- 259. Definitions.
- 260. Laws not applicable to contracts.
- 261. Assignment and delegation of procurement functions and responsibilities.
 - (a) In general.
 - (b) Procurements for or with other agencies.
- 262. Determinations and decisions.
 - (a) Individual or class determinations and decisions authorized.
 - (b) Written findings required.
- 263. Performance based management: acquisition programs.
 - (a) Congressional policy.
 - (b) Establishment of goals.
 - (c) Identification of noncompliant programs.
- 264. Relationship of commercial item provisions to other provisions of law.
 - (a) Applicability of subchapter.
 - (b) List of laws inapplicable to contracts for acquisition of commercial items.
- 264a. Definitions.
- 264b. Preference for acquisition of commercial items.
 - (a) Preference.
 - (b) Implementation.
 - (c) Preliminary market research.
- 265. Contractor employees: protection from reprisal for disclosure of certain information.
 - (a) Prohibition of reprisals.
 - (b) Investigation of complaints.
 - (c) Remedy and enforcement authority.
 - (d) Construction.
 - (e) Definitions.
- 266. Merit-based award of grants for research and development.
 - (a) Policy.
 - (b) Rule of construction.
 - (c) New grant defined.
 - (d) Inapplicability to certain grants.

SUBCHAPTER V—FOREIGN EXCESS PROPERTY

271 to 274. Transferred.

SUBCHAPTER VI—FEDERAL RECORD MANAGEMENT

281 to 291. Transferred.

SUBCHAPTER I—GENERAL PROVISIONS

§§ 201 to 205. Transferred

CODIFICATION

Section 201, act June 30, 1949, ch. 288, §2, 63 Stat. 378, which related to Congressional declaration of policy, was transferred to section 471 of Title 40, Public Buildings, Property, and Works.

Section 202, acts June 30, 1949, ch. 288, §3, 63 Stat. 378; Sept. 5, 1950, ch. 849, §§7(a), 8(a), 64 Stat. 590, which related to definitions, was transferred to section 472 of Title 40.

Section 203, act June 30, 1949, ch. 288, title VI, §601, formerly title V, §501, 63 Stat. 399; renumbered Sept. 5, 1950, ch. 849, §6(a), (b), 64 Stat. 583, which related to applicability of existing provisions, was transferred to section 473 of Title 40.

Section 204, act June 30, 1949, ch. 288, title VI, §602(c), (d), formerly title V, §502(c), (d), 63 Stat. 401; renumbered and amended Sept. 5, 1950, ch. 849, §§6(a), (b), 7(e), (f), 8(c), 64 Stat. 583, 590, which related to exemptions for Congress, departments, agencies, corporations, and persons, was transferred to section 474 of Title 40.

Section 205, act June 30, 1949, ch. 288, title VI, §603, formerly title V, §503, 63 Stat. 403; renumbered and amended Sept. 5, 1950, ch. 849, §§6(a), (b), 7(g), 64 Stat. 583, 590, which related to authorization of appropriations and fund transfer authority, was transferred to section 475 of Title 40.

SUBCHAPTER II—GENERAL SERVICES ADMINISTRATION

§§ 211 to 219. Transferred

CODIFICATION

Section 211, act June 30, 1949, ch. 288, title I, §101, 63 Stat. 379, which related to General Services Administration, was transferred to section 630 of former Title 5, Executive Departments and Government Officers and Employees, and subsequently transferred to section 751 of Title 40, Public Buildings, Property, and Works.

Section 212, act June 30, 1949, ch. 288, title I, §102, 63 Stat. 380, which related to transfer of functions, was transferred to section 630a of former Title 5, Executive Departments and Government Officers and Employees, and subsequently transferred to section 752 of Title 40.

Section 213, act June 30, 1949, ch. 288, title I, §103, 63 Stat. 380, which related to transfer of affairs of Federal Works Agency, was transferred to section 630b of former Title 5, Executive Departments and Government Officers and Employees, and subsequently transferred to section 753 of Title 40.

Section 214, act June 30, 1949, ch. 288, title I, §104, 63 Stat. 381, which related to records management, was transferred to section 391 of former Title 44, Public Printing and Documents. See sections 1506, 2102, 2301, 2501, and 2902 of Title 44, Public Printing and Documents.

Section 215, act June 30, 1949, ch. 288, title I, §105, 63 Stat. 381, which related to transfer and liquidation of War Assets Administration, was transferred to section 630c of former Title 5, Executive Departments and Government Officers and Employees, and was subsequently repealed by section 8(a) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 632.

Section 216, act June 30, 1949, ch. 288, title I, §106, 63 Stat. 381, which related to redistribution of Administrator's functions, was transferred to section 630d of former Title 5, Executive Departments and Government Officers and Employees, and subsequently transferred to section 754 of Title 40, Public Buildings, Property, and Works.

Section 217, act June 30, 1949, ch. 288, title I, §107, 63 Stat. 382, which related to transfer of funds, was transferred to section 630e of former Title 5, Executive Departments and Government Officers and Employees, and subsequently transferred to section 755 of Title 40.